

COOPERATIVE AGREEMENT

THIS COOPERATIVE AGREEMENT (“Agreement”) is made this _____ day of _____ 20__ by and between the Maryland Environmental Trust (“MET”) and {name of land trust}; {(“xxx”)} (collectively, “the Organizations”).

RECITALS

WHEREAS, MET is established by Subtitle 2 of Title 3 of the Natural Resources Article of the Annotated Code of Maryland to conserve and perpetuate the aesthetic, natural, health and welfare, scenic and cultural qualities of the environment, including, but not limited to, land, water, air, wildlife, scenic qualities and open space in the State, and is charitable in nature and a “qualified organization” within the meaning of Section 170(h)(3) of the United States Internal Revenue Code of 1986 (“IRC”);

WHEREAS, {name of land trust} is charitable in nature, is incorporated in {state of incorporation} to {brief mission statement}, {name of land trust} is a tax exempt charitable organization within the meaning of Section 501(c)(3) of the IRC and is a “qualified organization” within the meaning of Section 170(h)(3) of the IRC;

WHEREAS, MET and {name of land trust} have mutual goals with respect to the promotion of land conservation and stewardship in {location}, Maryland and strengthening Maryland’s land trust community; and

WHEREAS, {name of land trust} enters into this Agreement with MET for the purposes of: (1) furthering the mutual goals referenced in this Agreement to protect and conserve land in the State and; (2) enabling {name of land trust} to seek benefits under Maryland law including, but not limited to, Md. Code Ann., Natural Resources Article § 3-214 (Local Land Trust Revolving Loan Program); § 3-2A-01 (Land Trust Grant Fund), § 5-901 (Program Open Space), § 5-9A-02 (Rural Legacy Program) § 5-9D-02 (Greenspace Equity Program); Tax-Property Article § 7-304 (State Property Tax exemption for fee owned land), § 7-519 (Exemptions for Community-managed open spaces), § 9-220 (optional property tax credit on conservation land or property owned by a land trust), or § 12-108 (eligibility for exemption from recordation tax); and Real Property Article § 10-705 (duty upon sale of property encumbered by conservation easement).

WHEREAS, land trusts that enter into Cooperative Agreements with MET may access benefits offered by MET’s Land Trust Assistance Program, including educational opportunities, stewardship assistance, and land conservation initiatives;

WHEREAS, MET and {name of land trust} each advances its mission by entering into this Agreement to work cooperatively to support the Organizations’ mutual roles and activities related to land conservation;

WHEREAS, MET and {name of land trust} will facilitate communication and cooperation among land conservation organizations in Maryland to foster shared expertise and experience.

WHEREAS MET and {name of land trust} will support initiatives that would benefit the Maryland land trust community and encourage private land conservation.

NOW, THEREFORE, BE IT AGREED that for and in consideration of the mutual covenants and promises between the parties to this Agreement, MET and {name of land trust} shall act in accordance with the following provisions:

SECTION I. REQUIREMENTS FOR ORGANIZATIONAL STANDING AND DOCUMENTATION

A. MET will only enter into or renew an Agreement with an entity that is in good standing with the Maryland State Department of Assessments and Taxation pursuant to Md. Code Regs. 18.04.03.01. {name of land trust} shall maintain at all times a status of “good standing” and will notify MET in writing of any change in that standing.

B. Each Organization shall promptly notify the other in writing of any change in its status as a “qualified organization” under Section 170(h)(3) of the Internal Revenue Code.

C. Each Organization shall adopt the Land Trust Alliance’s *Land Trust Standards and Practices* (2017) as guidelines for such Organization’s operations. (MET can provide a board resolution template published by the Land Trust Alliance upon request).

D. Each Organization shall commit to making continual progress toward implementation of these *Standards and Practices* as appropriate to the capacity and experience of such Organization’s staff and volunteers.

E. {name of land trust} shall have developed and implemented a Records Policy prior to the execution of this Agreement that demonstrates a process to ensure that originals or copies of all documents essential to the governance of the Organization, and the stewardship, monitoring, and enforcement of each real property transaction and conservation easement interest are stored in a secure manner and protected from damage or loss. To the extent practical, the Records Policy should also follow best practices available, for example those published by the Land Trust Alliance.

F. MET will execute or renew an Agreement or issue a Written Certification when {name of land trust} is in good standing and provides to MET:

1. Satisfactory evidence of 501(c)(3) tax exempt status issued by the IRS;
2. Verification that the land trust is a “qualified organization” as defined under IRC Section 170(h)(3) and regulations promulgated under 170(h)(3), demonstrated by selections on the most recent federal tax filing (e.g. Form 990);
3. A resolution of the Board of Directors/Trustees of the Organization affirming that the land trust has adopted the Land Trust Alliance’s *Land Trust Standards and Practices* (2017);
4. A copy of the land trust’s Conflict of Interest Policy;

5. A copy of the land trust's Records (Record Retention or Document Management) Policy;
6. A copy of the land trust's Articles of Incorporation;
7. A copy of the land trust's Bylaws;
8. A copy of the land trust's written project-selection criteria or policy;
9. A copy of the land trust's monitoring and stewardship policies or procedures;
10. A copy of the land trust's roster of current directors or trustees; and
11. The identity of a contact person for the {name of land trust} including name, phone number, email and mailing address.

SECTION II. REQUIREMENTS TO OBTAIN A WRITTEN CERTIFICATION

A. {name of land trust} may request a "Written Certification" from MET in order for the land trust to seek a property tax exemption or tax credit on land owned in fee simple by the land trust pursuant to Annotated Code of Maryland in Tax-Property Article §§ 7-304(b) and 9-220(d).

B. MET will not issue a Written Certification until it has received the following items from {name of land trust}: (1) the documents and information identified in Section I.E; (2) a written request identifying whether the land trust is using the Written Certification for an exemption from state property tax, a local property tax credit, or both; (3) confirmation of the name of the legal entity making the request, which should be the same legal name of the entity in an Agreement with MET; (4) and confirmation of the title of the person submitting the request.

C. {name of land trust} is responsible for applying to the Maryland State Department of Assessments and Taxation or to any local jurisdiction to obtain any property tax exemption or credit.

D. In addition to any documentation required by MET, {name of land trust} is responsible for declaring that the use of the land meets the specific criteria of the Annotated Code of Maryland, Tax-Property Article §§ 7-304 and 9-220.

SECTION III. OBLIGATIONS ACCEPTED BY {NAME OF LAND TRUST} WITH REGARD TO CONSERVATION EASEMENTS CO-HELD WITH MET

Section III shall apply only if the Organizations pursue conservation easement acquisitions to which each Organization is a Grantee, making them co-holders on any such jointly-held conservation easements, and if the Organizations currently hold conservation easements jointly.

A. ACQUISITION OF AN EASEMENT INTEREST IN REAL PROPERTY

Each Organization agrees to the following terms for conservation easement acquisitions and each shall:

1. Exchange information to identify, negotiate, and prepare documentation and recordable instruments for conservation easement acquisitions within {name of land trust}'s

geographic area. Neither organization is precluded from pursuing easements that are not co-held between the parties to this Agreement.

2. Use the model deed of conservation easement developed by MET to include site-specific provisions deemed necessary and agreed to by both Organizations.

3. MET and {name of land trust} will not give tax or legal advice or financial or legal assurances to real property owners, but will provide real property owners with factual information regarding the availability of federal income tax deductions, state income tax deductions or credits, property tax credits, or estate tax benefits.

4. Share the following documents, if available and applicable, in connection with each jointly held conservation easement:

- a. Recorded deed of conservation easement (including baseline documentation);
- b. Written appraisal report provided by the grantor;
- c. IRS Form 8283 as signed by MET and IRS Form 8283 signed by {name of land trust};
- d. Contemporaneous gift acknowledgement letter sent to the landowner(s);
- e. Copy of MET's Board of Public Works approval of the project; and
- f. Image files of the Baseline Images.

5. MET will retain the original signed and recorded deed of conservation easement at the Maryland State Archives.

B. STEWARDSHIP AND ENFORCEMENT OF CO-HELD EASEMENTS

Each Organization agrees to the following terms for conservation easement stewardship, monitoring, and enforcement for jointly held/co-held easements:

1. Every co-held easement shall be monitored annually by {name of land trust} unless and until another frequency is agreed upon and acknowledged in writing.

2. The Organizations shall conduct joint monitoring visits to co-held conservation easement properties as needed or requested by either party.

3. The Organizations will share information and reports generated by monitoring visits to co-held conservation easement properties. MET shall periodically review the monitoring activities of {name of land trust} for all jointly held easements, and MET shall itself monitor each jointly held easement pursuant to its policies.

4. MET will not be obligated to coordinate joint monitoring with {name of land trust} if {name of land trust} dissolves or otherwise ceases to operate and thereby abandons its easement stewardship obligations as set forth in this Agreement.

5. {name of land trust} shall send copies of all monitoring reports and photographs of jointly held conservation easements to MET semiannually, unless more urgent reporting is appropriate as stated in paragraph 8 in this section. For the period from January 1 through June 30

of each year, {name of land trust} will send such reports and photographs by July 31 of that year. For the period from July 1 through December 31 of each year, {name of land trust} will send such reports and photographs by January 31 of the following year.

6. {name of land trust} will use a monitoring report template developed by MET or approved by MET to include specific reporting fields deemed necessary by MET (listed in Addendum A). Any changes to a monitoring report template must be agreed upon in writing by both organizations.

7. Monitoring reports must be legible and at minimum include the observations and reporting requirements listed in Addendum A.

8. {name of land trust} shall notify MET upon discovery and no later than 30 days after any documented or observed violation or concern occurring on co-held conservation easement property.

9. On the ground monitoring consists of a monitor physically observing the co-held easement by traversing the terrain by foot, or vehicle or by foot and by drone.

10. Photographs for on the ground monitoring will include the minimum reporting requirements:

- a. a minimum of 5 photographs showing such features as entrance/access, structures, major improvements and/or sensitive features, land use activities, waterbody and any other notable natural features as well as noted areas of concern(s) or possible violation(s) of the easement;
- b. photographs should include a description of each photograph subject and cardinal direction the photograph was taken (e.g. Barn facing NW)
- c. photographs of any concerns with land use activities and/or easement violations (with reference to corresponding photographs/concern on monitoring report)
- d. aerial image/map showing location of photos taken (photo point map) or note on the monitoring report as to what portion of the property could be viewed (road frontage, access, curtilage, central vantage, corners and/or waterbody).

11. Remote monitoring consists of reviewing easement properties using aerial/satellite imagery. Images should be in color, have a resolution 0.5m or better and must be less than one year old at the time of review. Remote monitoring reports should at minimum include the observations and reporting requirements listed in Addendum A.

12. The Organizations shall consult with each other upon receipt of landowner requests to exercise reserved rights and to seek discretionary approvals, consents, or amendments regarding co-held conservation easements pursuant to the provisions of the applicable deed of conservation easement. The Organizations will develop, when possible, a coordinated response to the landowner consistent with the conservation purposes and conservation attributes of such easement and the conservation purposes of each Organization.

13. The Organizations shall notify each other of potential or observed violation(s). When possible, the Organizations will coordinate responses and enforcement and they will, at minimum, keep the other reasonably informed in writing of actions taken.

14. {name of land trust} shall provide documentation requested by MET for purposes of compliance with state and federal law.

SECTION IV. PERFORMANCE AND TERMINATION

A. Either Organization may terminate this Agreement if the other Organization fails to comply with the requirements of this Agreement and does not fulfill its obligations pursuant to the terms and conditions of this Agreement. Additionally, MET may terminate this Agreement upon its determination that termination is in the best interest of the protection of MET's property interests and for purposes of compliance with state and federal law. Either Organization may terminate for the reasons stated in this paragraph after written notice of its intention to terminate and allowance of a 60 day period for the other Organization to take corrective action to cure the default.

B. The {name of land trust} shall notify MET in writing before any action is taken by the organization to voluntarily dissolve under Maryland law and will provide a description of plans to assign the organization's interest in any jointly held conservation easement. The {name of land trust} shall notify MET in writing within a reasonable time after having been put on notice of any filing or petition for a court to dissolve the corporation involuntarily.

C. Prior to dissolution, as necessary to protect the perpetuity of jointly held easements, the Organizations shall take all actions necessary so that all jointly held conservation easements are duly assigned to a "qualified organization" within the Internal Revenue Code and such assignments are reflected in the land records.

D. If {name of land trust} forfeits and does not revive its corporate charter and thereby fails to demonstrate to MET its status of good standing with the State Department of Assessment and Taxation, then this Agreement will be deemed void and of no further effect.

SECTION V. MISCELLANEOUS

A. This Agreement notwithstanding, both MET and {name of land trust} may pursue their missions independently or with other private and public organizations to encourage and facilitate the acquisition, monitoring, and enforcement of conservation easements wherever located in the State of Maryland.

B. This Agreement is intended only to create a cooperative relationship between MET and {name of land trust}. Specific conditions of MET and State funding programs, and of individual jointly held conservation easements, may be enumerated in separate agreements for each of these programs or deeds of conservation easement. This Agreement does not remove any responsibility of either Organization with regard to compliance with the requirements of the Internal Revenue Code. Unless explicitly referenced, this Agreement does not address any responsibilities regarding membership in the Land Trust Alliance, compliance with requirements of the Land Trust

Alliance's 2017 *Land Trust Standards and Practices*, accreditation by The Land Trust Accreditation Commission, or participation in the Land Trust Alliance Conservation Defense Insurance program.

C. This Agreement supersedes all prior Agreements between MET and {name of land trust}. This Agreement shall automatically terminate on December 31, _____ at which time the respective Organizations may enter into a new Agreement if both choose to do so.

D. Any notices required by this Agreement shall be sent by regular mail addressed to:

Maryland Environmental Trust
100 Community Place, Third Floor
Crownsville, Maryland 21032

Or shall be emailed, which shall include a confirmation by the recipient that the email was received, to:

Maryland Environmental Trust
met.info@maryland.gov

and to

{name of land trust}
123 Fake Street
Anytown, Maryland 21658

Or shall be emailed, which shall include a confirmation by the recipient that the email was received, to:

{name of land trust}
Fake.email@fakeLTinc.org

E. This Agreement shall be governed by Maryland law.

F. The parties may execute this Agreement in two or more counterparts by any means authorized by state law, which shall, taken together, be signed by all parties; each counterpart shall be deemed an original instrument as against any party who has signed it.

SIGNATURES ON FOLLOWING PAGES

{NAME OF ORGANIZATION},
{a Maryland nonprofit corporation}

Date:

By: _____
{name}
{title}

MARYLAND ENVIRONMENTAL TRUST

Date:

By: _____
{name}
Director

SAMPLE